

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

EFRAIN SUAREZ,

Plaintiff,

v.

ORDER
03-CV-809

SGT. KREMER, et. al.,

Defendants.

This case was referred to Magistrate Judge Hugh B. Scott, pursuant to 28 U.S.C. § 636(b)(1). On February 7, 2008, defendants filed a motion for summary judgment. On June 13, 2008, Magistrate Judge Scott filed a Report and Recommendation, recommending that defendant's motion for summary judgment be granted and that plaintiff's Supplemented Complaint be dismissed in its entirety.

Plaintiff filed objections to the Report and Recommendation on June 27, 2008. Defendants filed a response on July 14, 2008. Oral argument on the objections was held on August 8, 2008.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and

Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts Magistrate Scott's thorough and well-reasoned Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Scott's Report and Recommendation, defendants' motion for summary judgment is granted and plaintiff's Supplemented Complaint is dismissed in its entirety. The Clerk of Court shall take all steps necessary to close the case.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this judgment would not be taken in good faith, and therefore denies leave to appeal *in forma pauperis*. Further requests to proceed on appeal *in forma pauperis* must be filed with the United States Court of Appeals for the Second Circuit in accordance with the requirements of Rule 24 of the Federal Rules of Appellate Procedure.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: September , 2008